

Amendment No. 1 to HB2118

Curcio
Signature of Sponsor

AMEND Senate Bill No. 2288

House Bill No. 2118*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-35-311(d)(1), is amended by adding the following language at the end of the subdivision:

If the trial judge finds by a preponderance of the evidence that the defendant has violated the conditions of probation and suspension of sentence, then the court may revoke the defendant's probation and suspension of sentence, in full or in part, pursuant to § 40-35-310. The court may sentence the defendant to a sentence of probation for the remainder of the unexpired term.

SECTION 2. Tennessee Code Annotated, Section 40-35-311, is amended by deleting subdivision (d)(2) and substituting:

(2) Notwithstanding subdivision (d)(1), the trial judge shall not revoke a defendant's probation and suspension of sentence for a felony offense, whether temporarily under subdivision (e)(1) or otherwise, based upon one (1) instance of technical violation or violations.

SECTION 3. Tennessee Code Annotated, Section 40-35-311(d)(3), is amended by deleting the subdivision and substituting instead:

(3) As used in this subsection (d), "technical violation" means an act that violates the terms or conditions of probation but does not constitute a new felony, new class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of probation.

SECTION 4. Tennessee Code Annotated, Section 40-35-311(e)(1), is amended by deleting the language "If the trial judge revokes a defendant's probation and suspension of sentence after finding, by a preponderance of the evidence, that the defendant engaged in conduct that is a second or subsequent instance of a technical violation" and substituting the language "If the trial judge finds by a preponderance of the evidence that the defendant has violated the conditions of probation and suspension of sentence for a felony offense by engaging in conduct that is a second or subsequent instance of a technical violation".

SECTION 5. Tennessee Code Annotated, Section 40-35-311(e)(2), is amended by deleting the language "a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, or absconding" and substituting instead:

a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of probation

SECTION 6. Tennessee Code Annotated, Section 40-28-122(c)(1), is amended by deleting the language "a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, or absconding" wherever it appears and substituting instead:

a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, absconding, or contacting the defendant's victim in violation of a condition of parole

SECTION 7. This act takes effect July 1, 2022, the public welfare requiring it, and applies to court determinations made on or after that date.